



Practitioner's Document No. 1604

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David A. Culp

Application No.: 10/736,925 Group No.: 3643

Filed: 12/16/2003 Examiner: Timothy D. Collins

Confirmation No.: 6903

For: Improved Apparatus and Method for Aerodynamic Wing

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION

State of California §
 §
County of Contra Costa §

1. I, David A. Culp, state under penalty of perjury that the foregoing is true and correct.

2. I am the sole inventor and developer of the invention made the basis of pending U.S. non-provisional patent application serial number 10/736,925 filed 12/16/2003 (the "Present Invention").

3. I am CEO and president of KiteShip Corporation, a California corporation ("KiteShip™").

4. I was contracted as a consultant to Oracle Racing, Inc., a California corporation for design, testing and construction of certain technologies to be considered by Oracle Racing, Inc., for

the America's Cup XXXI competition held in New Zealand for the sailing year 2002 - 2003. My consultant role for Oracle Racing, Inc., was assigned to, and taken over by, KiteShip upon its formation.

5. As part of the confidential testing and experimentation KiteShip™ and I performed for Oracle Racing, Inc., the Present Invention was developed. All experimentation and testing for the Present Invention was finally completed on December 19, 2002, at which time the Present Invention was first publicly displayed by Oracle Racing, Inc., on its America's Cup sailing craft in New Zealand. I presently own, and have always owned, all right, title, and interest in and to commercial use of the Present Invention.

6. In November 2002, U.S. provisional patent application serial number 60/429,779 (the "Provisional Application") for a Traction Kite for Waterborne Vessels was filed with the United States Patent and Trademark Office, naming Ronald B. Swenson and myself as co-inventors. In November of 2002, the Present Invention was still being experimentally tested and was not finally scaled for Oracle Racing, Inc.'s America's Cup sailing craft. At that time, Oracle Racing, Inc., informed KiteShip™ that it did not deem the amount of time left between final scaling and racing as adequate for training its racing crew on the new technology of the Present Invention, and therefore Oracle

Racing, Inc., never accepted the Present Invention for its America's Cup sailing craft.

7. Though some diagrams of an OutLeader kite™ accompany the Provisional Application, the Provisional Application was directed to traction mechanisms used to control traction kites, and subsequently was abandoned. Any reference to "patent pending" of an OutLeader kite™ under the Provisional Application was an error of a lay person in understanding what could be claimed as such under a Provisional Application.

8. An OutLeader kite™ is a controllable traction kite which simultaneously has only three lines, no bridles, no inflatable chambers, no battens or spars, no ram air or double surfaces, no stiffener or padding and no discontinuous surfaces. An OutLeader kite™ provides a high lift coefficient and relatively low lift to drag ("L/D") ratios similar to conventional spinnaker sails.

9. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
EXECUTED on SEPT 14, 2005.


David A. Culp